

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) **Case No. 4:06CR0600 SNL**
)
)
HOLLIVIN P. COTTON,)
)
)
Defendant.)**

ORDER

This matter is before the Court upon Defendant's motion to determine the competency of Defendant Hollivin P. Cotton ("Defendant") under 18 U.S.C. §§ 4241 and 4242. Upon application of Defendant, the undersigned United States Magistrate Judge ordered a psychiatric examination of Defendant on January 17, 2007, and again on April 17, 2007.

Thereafter, the Court noticed counsel for Defendant and the Government that the Court would take up Defendant's motion to determine competency on the August 3, 2007, hearing date. On that date, Defendant appeared with counsel as did counsel for the Government. Counsel for the Government requested that the Court accept the Forensic Report in evidence. There was no objection by Defendant. No other evidence was presented by either party.

The test for determining competency to stand trial is (1) whether Defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational

understanding and (2) whether Defendant has a rational, as well as factual, understanding of the proceedings against him. See Dusky v. United States, 362 U.S. 402, 402 (1960) (per curiam). The district court is responsible to conduct an evidentiary hearing if there is "sufficient doubt" about defendant's competency. See United States v. Long Crow, 37 F.3d 1319, 1325 (8th Cir. 1994) (citing United States v. Day, 949 F.2d 973, 981 and n.8) (8th Cir. 1991)).

Based upon the Forensic Report and the applicable law, the Court finds that Defendant does not suffer from a severe mental disease or defect and has the ability to understand the nature of the legal proceedings against him. The Court further finds Defendant to be competent to assist in his own defense.

/s/ Thomas C. Mummert, III
THOMAS C. MUMMERT, III
UNITED STATES MAGISTRATE JUDGE

Dated this 6th day of August, 2007.